

## CHAPTER 3

### ATTORNEYS AND THE PRACTICE OF LAW

#### ARTICLE 8

#### STATE BAR ASSOCIATION; CREATION; CONTROL; AND REGULATION

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#### **§ 3-801. Name.**

The name of this Association shall be NEBRASKA STATE BAR ASSOCIATION.

#### **§ 3-802. Purpose and authority.**

(A) Purpose. The purposes of this Association are to improve the administration of justice; to foster and maintain high standards of conduct, integrity, confidence, and public service on the part of those engaged in the practice of law; to safeguard and promote the proper professional interests of the members of the Bar; to provide improvements in the education and qualifications required for admission to the Bar, the study of the science of jurisprudence and law reform, and the continuing legal education of the members of the Bar; to improve the relations of the Bar with the public; to carry on a continuing program of legal research; and to encourage cordial relations among the members of the Bar. All of these purposes are to the end that the public responsibilities of the legal profession may be more effectively discharged.

(B) Government. The supreme authority of this Association shall be vested in the membership thereof through the exercise of the power of Initiative and Referendum in such manner as may be prescribed in the bylaws. Subject thereto, the control over the business and affairs of this Association shall be vested in a House of Delegates, as provided in § 3-805. Subject to the overall control of the House of Delegates, the Executive Council shall function as the administrative and executive organ of the Association as provided in § 3-806. The officers of the Association, as hereinafter enumerated, shall have the prerogatives, responsibilities, and qualifications and shall perform the duties of the respective offices, all as provided in § 3-804.

### **§ 3-803. Membership.**

(A) Requirements. All persons who, on the date that these rules go into effect, are admitted to the practice of law in this State, by order of the Nebraska Supreme Court, shall constitute the members of this Association, subject to due compliance with the requirements for membership hereinafter set forth.

(B) Classes. Members of this Association shall be divided into four classes, namely: Active members, Inactive members, Law Student members, and Emeritus members.

(1) All members who are licensed to engage in the active practice of law in the State of Nebraska, who do not qualify for and apply for Inactive membership status, and who are not Law Student members, shall be Active members.

(2) Any member who is not actively engaged in the practice of law in the State of Nebraska, or who is a nonresident of the State of Nebraska and not actively engaged in the practice of law in Nebraska, and who is not an Emeritus member, may, if he or she so elects, be placed in Inactive membership status.

A member desiring to be placed in Inactive membership status shall file written application therefor with the Secretary and, if otherwise qualified, shall be placed in such inactive status classification. No Inactive members shall practice law in Nebraska, or vote or hold office in this Association. Any Inactive member may, on filing application with the Secretary and upon payment of the required dues, and compliance with such requirements as may be imposed by the Supreme Court to show fitness to engage in the active practice of law in this State, become an Active member.

(3) Any member who attained the age of 75 years of age during the dues year being billed or has been actively engaged in the practice of law in the State of Nebraska for 50 years or more during the dues year being billed may, if he or she so elects, be placed in an Emeritus membership status. A member desiring to be placed in an Emeritus membership status shall file written application therefor with the Secretary and, if otherwise qualified, shall be placed in the Emeritus status classification. A member electing Emeritus classification shall not be required to pay membership dues to this Association. No Emeritus member shall practice law in Nebraska, or vote or hold office in this Association. Any Emeritus member may, on filing application with the Secretary and upon payment of the required dues and compliance with the requirements as may be imposed by the Supreme Court to show fitness to engage in the active practice of law in this State, become an Active member.

(4) Except for the right reserved by law to litigants to prosecute or defend a cause in person, or as provided elsewhere in these rules, no person other than an Active member of this Association shall engage in the practice of law in this State, or in any manner hold himself or herself out as authorized or qualified to practice law in this State. Any court in this State may, on motion and upon such person taking the oath required by Neb. Rev. Stat. § 7-104, allow a member of the Bar of any other state or jurisdiction, in good standing therein, to appear and participate in any particular action or proceeding then pending before such court (for purpose of such business only), upon it further being made to appear to the court, by written showing filed therein, that such person has associated with and is appearing in such action with an Active member of this Association upon whom service may be made in all matters connected with said action, with same effect as if personally made on such foreign attorney in this State; provided, regularly licensed practicing attorneys of other states, the laws of which permit practice in their courts of attorneys from this State, without a local attorney being associated with such attorneys, shall not be required to have an Active member of this Association associated with them in such action. (See Neb. Rev. Stat. § 7-103.)

(5) Nothing in these rules shall be construed to bar any Active member from the practice of law pursuant to the provisions of any rules of the Supreme Court authorizing the practice of law by a professional service corporation or a limited liability organization, subject to the limitations provided by such rules.

(6) In order to make information available to the public about the financial responsibility of each active member of this Association for professional liability claims, each such member shall, upon admission to the Bar, and with each application for renewal thereof, submit the certification required by this rule. For purposes of this rule, professional liability insurance means:

(a) The insurance shall insure the member against liability imposed upon the member arising out of a professional act, error, or omission in the practice of law.

(b) Such insurance shall insure the member against liability imposed upon the member by law for damages arising out of the professional acts, errors, and omissions of all nonprofessional employees employed by the member.

(c) The policy may contain reasonable provisions with respect to policy periods, territory, claims, conditions, exclusions, and other matters.

(d) The policy may provide for a deductible or self-insured retained amount and may provide for the payment of defense or other costs out of the stated limits of the policy.

(e) A professional act, error, or omission is considered to be covered by professional liability insurance for the purpose of this rule if the policy includes such act, error, or omission as a covered activity, regardless of whether claims previously made against the policy have exhausted the aggregate top limit for the applicable time period or whether the individual claimed amount or ultimate liability exceeds either the per claim or aggregate top limit.

Each active member shall certify to this Association on or before January 1 of each year: 1) whether or not such member is currently covered by professional liability insurance, other than an extended reporting endorsement; 2) whether or not such member is engaged in the private practice of law involving representation of clients drawn from the public; 3) whether or not such member is a partner, shareholder, or member in a domestic professional organization as defined by the rule governing Limited Liability Professional Organizations, and 4) whether or not the active member is exempt from the provisions of this rule because he or she is engaged in the practice of law as a full-time government attorney or in-house counsel and does not represent clients outside that capacity.

The foregoing shall be certified by each active member of this Association in such form as may be prescribed by this Association and shall be made available to the public by such means as may be designated by the House of Delegates. Failure to comply with this rule shall result in suspension from the active practice of law until such certification is received. An untruthful certification shall subject the member to appropriate disciplinary action. All members shall notify the Secretary in writing within 30 days if 1) professional liability insurance providing coverage to the member has lapsed or is not in effect, or 2) the member acquires professional liability coverage as defined by this rule.

All certifications not received by April 1 of the current calendar year shall be considered delinquent. The Secretary shall send written notice, by certified mail, to each member then delinquent in the reporting of professional liability insurance status, which notice shall be addressed to such member at his or her last reported address, and shall notify such member of such delinquency. All members who shall fail to provide the certification within 30 days thereafter shall be reported to the Supreme Court by the

Secretary, and the Supreme Court shall enter an order to show cause why such member shall not be suspended from membership in this Association. The Supreme Court shall enter such an order as it may deem appropriate. If an order of suspension shall be entered, such party shall not practice law until restored to good standing.

This rule shall not affect this Association, its rules, procedures, structure, or operation in any way; nor shall the adoption of this rule make this Association, its officers, directors, representatives, or membership liable in any way to any person who has suffered loss by error or omission of a lawyer. This rule is adopted solely for the purposes stated herein and not for the purpose of making this Association, its officers, directors, representatives, or membership insurers or guarantors for clients with respect to the lawyer-client relationship.

This rule does not create a claim against this Association for failure to provide accurate information or a report on the insured status of any lawyer, or for implementation of any provision of these rules.

**MANDATORY REPORTING OF PROFESSIONAL  
LIABILITY INSURANCE COVERAGE**

I am engaged in the private practice of law involving representation of clients drawn from the public:  
Yes\_\_\_\_ No\_\_\_\_

I am currently covered by a professional liability insurance policy other than an extended reporting endorsement:  
Yes\_\_\_\_ No\_\_\_\_

I am currently a member of a professional corporation, limited liability company, or a limited liability partnership and maintain the insurance coverage required by the rule governing Limited Liability Professional Organizations:  
Yes\_\_\_\_ No\_\_\_\_

I am engaged in the practice of law as a full-time government attorney or in-house counsel and do not represent clients outside that capacity, and therefore, I am exempt from the provisions of this rule.  
Yes\_\_\_\_ No\_\_\_\_

I hereby certify the truth of the information provided above.

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Date

(C) Registration. All members not already registered with the Secretary of this Association shall, within 60 days after being admitted to the practice of law by the Supreme Court of this State, register with the Secretary of this Association by setting forth the member's full name, business address, and signature. All members shall promptly notify the Secretary, in writing, of any change in such address.

(D) Dues.

(1) Payment of Dues. Each member shall pay membership dues to this Association for each calendar year from January 1 to December 31 following, payable in advance on or before January 1 of each year, in such amount as may be fixed by the Supreme Court. All dues shall be paid to the Treasurer of this

Association and shall constitute the funds for furthering the purposes of this Association. Different classifications of dues may be established for Active, Inactive, and Law Student members and for those members who have been admitted to the Bar of any State or other jurisdiction for a period of less than 5 years and for those members who are serving in the Armed Forces of the United States, while so serving. Members newly admitted to this Association shall receive a complimentary membership for the remainder of the current calendar year. Annual membership dues beginning calendar year 2009 shall be as follows:

Active (Members who have been admitted to the Bar of any State or other jurisdiction for more than 4 calendar years following the calendar year of admission.)	\$275
Junior Active (Members who have been admitted to the bar of any State or other jurisdiction for 4 or fewer calendar years following the calendar year of admission.)	\$160
Senior Active (Members 75 years of age or older during the dues year being billed.)	\$ 70
Inactive	\$ 65
Military (A member actively engaged in the Armed Forces of the United States at the beginning of any calendar year shall be exempt from payment of dues for such year upon submitting to the Secretary, prior to the date of delinquency provided for in this Article, satisfactory proof that he or she is so engaged; upon receipt of such proof, the Secretary shall issue a membership card to the member under the classification held by the member prior to his or her induction in the service and shall cause the records of this Association to show that such card was issued without payment of dues.)	\$ 0
Emeritus	\$ 0

Effective January 1, 1999, and each year thereafter, a late fee of \$25 shall be assessed each Active or Inactive member whose dues are received after January 1, a late fee of \$50 shall be assessed on dues received on or after February 1, and a late fee of \$75 shall be assessed on dues received on or after March 1.

(2) Lobbying and Related Activities.

(a) This Association may use dues to analyze and disseminate to its members information on proposed or pending legislative proposals.

(b) All lobbying activities shall be subject to the following restrictions: The annual dues notice shall offer the members of the Bar an opportunity to direct that the stated amount of their dues intended for lobbying activities be placed instead in a restricted account. Funds from this account shall be budgeted by the Executive Council for activities which will promote the administration of justice or improvements of the legal system. The established budget for lobbying activities shall be reduced by the amount that is directed to the restricted account.

(E) Delinquency and Reinstatement. All dues and assessments not paid by April 1 of the current calendar year shall be considered delinquent; and the Secretary shall send written notice, by certified mail, to each member then delinquent in the payment of his or her dues and assessments, which notice shall be addressed to such member at his or her last reported address, and shall notify such member of such delinquency. All members who shall fail to pay delinquent dues and assessments within 30 days thereafter shall be reported to the Supreme Court by the Secretary, and the Supreme Court shall enter an

order to show cause why such member shall not be suspended from membership in this Association. The Supreme Court shall, after hearing thereon, enter such an order as it may deem appropriate. If an order of suspension shall be entered, such party shall not practice law until restored to good standing. Whenever a member suspended for nonpayment of dues and/or assessments shall make payment of all arrears, and shall satisfy the Supreme Court of his or her qualification to then return to the active practice of law, such member shall be entitled to reinstatement upon request. The Secretary shall keep a complete record of all suspensions and reinstatements. No person, while his or her membership is suspended, shall be entitled to exercise or receive any of the privileges of membership in this Association.

(F) Suspension or Disbarment. Any member who shall be suspended or disbarred from the practice of law by the Supreme Court shall, during the period of such suspension or disbarment, be likewise suspended or barred from membership in this Association. On reinstatement to practice by the Supreme Court, such party shall, on written request and upon payment of the requisite fees and/or assessments, be restored to membership in this Association.

(G) Fees. Nothing herein contained shall be construed to limit the power of this Association, or of any of its sections or committees, to assess registration fees or attendance fees for meetings, institutes, or continuing legal education sessions as may be approved or determined from time to time by the House of Delegates or the Executive Council.

(H) Resignation. Any member may resign either active or inactive membership in this Association by tendering his or her written resignation to the Clerk of the Supreme Court of Nebraska on a form to be provided. This form shall include an affidavit to be completed by the member seeking to resign, stating that the member has not been suspended or disbarred in any other state or by any court; that the member has not voluntarily surrendered his or her license to practice law in any other state or to any court in connection with any investigation or disciplinary proceeding against the member; that to the member's knowledge he or she is not then under investigation, nor has a complaint or charges pending against him or her with reference to any alleged violation of professional responsibilities as a lawyer; and that the member agrees to be subject to the jurisdiction of the Supreme Court for a period of 3 years from the date his or her resignation is accepted for the purpose of disciplinary proceedings for any alleged violation of his or her professional responsibilities as a lawyer. During this 3-year period, the acceptance of his or her resignation may be set aside by the Supreme Court upon application filed in the Supreme Court by the Counsel for Discipline. If the affidavit is completed, the Supreme Court may accept the resignation, provided the resigning member's dues are not delinquent, or may accept it upon payment of any delinquent dues, unless the member seeking to resign has been suspended for the nonpayment of dues as provided for in § 3-803(E), in which event the submitted resignation shall not be acted upon until the member seeking resignation has been reinstated as provided for in said section. In the event the affidavit is not fully completed, or any exception is taken to it, the tendered resignation shall be rejected. The Clerk shall keep a complete record of all requests for resignation and all resignations and shall report to the Secretary the names and addresses of members whose resignations have been accepted by the Supreme Court.

(I) Reinstatement Following Resignation. Whenever a former member of this Association who resigned is readmitted to the practice of law in Nebraska by the Supreme Court, the member shall pay dues for the year in which he or she is readmitted and be reinstated as a member of this Association.

Rule 3(B)(3) - (6), amended March 19, 2003, effective November 1, 2003; Rule 3(D)(1) amended February 25, 1998; Rule 3(D)(1) amended October 9, 1998; Rule 3(D)(1) amended July 27, 2000; Rule 3(D)(1) amended March 19, 2003, effective November 1, 2003; Rule 3(H) amended March 19, 2003, effective November 1, 2003. Renumbered and codified as § 3-803, effective July 18, 2008. § 3-803(D)(1) amended September 11, 2008.

**§ 3-804. Officers.**

(A) Titles. The officers of this Association shall consist of the following:

- (1) President,
- (2) President-Elect,
- (3) Chair of the House of Delegates,
- (4) Chair-Elect of the House of Delegates,
- (5) Secretary,
- (6) Treasurer,
- (7) Executive Director, and
- (8) Such other officer or officers as may be designated by the bylaws.

(B) Eligibility. Any Active member in good standing shall be eligible to hold any office for which he or she is elected or appointed in this Association. An appointive officer need not be a member of this Association.

(C) Nomination and Election. The following officers shall be nominated and elected in the manner provided by the bylaws:

- (1) President, by succession to that office by the President-Elect;
- (2) President-Elect;
- (3) Chair of the House of Delegates, by succession to that office by Chair-Elect of the House of Delegates;
- (4) Chair-Elect of the House of Delegates; and
- (5) Any other officer hereafter provided by the rules or the bylaws of the Association.

(D) Appointive Officers. The following officers shall be appointed by the Executive Council: Secretary, Treasurer, Executive Director, and any other officer provided for by the bylaws of this Association other than those required to be elected under the preceding section hereof.

(E) Combining of Offices. The offices of Secretary, Treasurer, Executive Director, and any other appointive offices provided for in the bylaws may be combined, in any combination, by the Executive Council.

(F) Removal of Appointive Officers. Any appointive officer may be removed from office at any time by the Executive Council.

(G) Duties and Powers.

(1) The President shall be the Chief Executive Officer of this Association, shall preside at all meetings of this Association and of the Executive Council and shall perform the duties usually pertaining to that office, shall appoint the members and chairs of all committees, and shall perform such other duties and responsibilities as may be provided by the bylaws.

(2) The President-Elect shall perform such duties as are assigned to him or her by the President, shall have and perform the duties and responsibilities of the President in case of the absence or incapacity of the President, and shall perform such other duties and responsibilities as may be provided by the bylaws.

(3) The Chair of the House of Delegates shall preside at all meetings of the House of Delegates, shall be the Executive Officer thereof, and shall perform such other duties and responsibilities as may be specifically determined by the House of Delegates or as may be provided by the bylaws.

(4) The Chair-Elect of the House of Delegates shall have the duties and responsibilities of the Chair in the absence or incapacity of the Chair and shall perform such other duties and responsibilities as may be specifically determined by the House of Delegates or as may be provided by the bylaws.

(5) The Secretary shall be the custodian of the records and archives of this Association; shall maintain the membership and all other records of this Association; shall report the minutes of all meetings of this Association, the Executive Council, and the House of Delegates; and shall perform such other duties and responsibilities as may be provided by the bylaws and these rules.

(6) The Treasurer shall be the custodian of and shall supervise the collection and disbursement of all funds and properties of this Association, shall disburse the funds of this Association as provided in § 3-809, and shall have such other duties and responsibilities as may be provided by the bylaws and these rules.

(7) The Executive Director shall have such responsibilities and perform such duties as shall be delegated to him or her by the Executive Council and the House of Delegates and shall perform such other duties and responsibilities as may be provided by the bylaws.

(8) The death, resignation, incapacity to act, or other termination or suspension of active membership in this Association of any officer as may be determined by any procedure provided therefor by the bylaws shall create an immediate vacancy in the office of any such officer of this Association.

(9) A vacancy occurring in an elective office of this Association shall be filled as follows: The President-Elect shall assume the office of the President if such office becomes vacant. The Chair of the House of Delegates shall assume the office of President if both the offices of President and President-Elect are vacant. The Chair-Elect of the House of Delegates shall assume the office of Chair of the House if such office becomes vacant or if the Chair of the House of Delegates has assumed the office of President. A vacancy in the office of Chair-Elect of the House of Delegates shall be filled by special election to be conducted by the House of Delegates. If a President-Elect Designate shall have been designated, he or she shall assume the office of President-Elect if it becomes vacant and a new President-Elect Designate shall be nominated and elected as soon as practical in the manner provided in § 3-804(H)(2).

(10) Any officer succeeding to the office of President through the filling of a vacancy occurring therein shall serve until the end of the second Annual Meeting following such succession. Any officer filling a vacancy in the office of the Chair of the House of Delegates or Chair-Elect of the House of Delegates shall have such term of office as may be provided by the bylaws.



(11) In the event of a vacancy in any appointive office, such vacancy shall be promptly filled by the Executive Council.

(H) Term of Office.

(1) The President and President-Elect shall hold office beginning with the close of this Association's Annual Meeting and shall serve until the close of the next succeeding Annual Meeting subject to the provisions for holding-over in the event of the filling of a vacancy therein as hereinbefore set forth. The Chair of the House of Delegates and the Chair-Elect of the House of Delegates shall hold office for such term or terms as may be provided in the bylaws. Members of the Executive Council shall hold office for the terms provided in § 3-806. All other officers shall hold office for the terms specified by the appointing authorities or as may be fixed by the bylaws.

(2) At least 90 days prior to this Association's Annual Meeting, the District members of the Executive Council, by a majority vote thereof, shall make nomination for the office of President-Elect of this Association for the following year. Such nomination shall be filed with the Secretary of this Association, who shall within 10 days thereafter mail notice of such nomination to the Active members of this Association setting forth the time and place fixed for the filing of additional nominations. Such notice shall further advise that additional nominations may be made by written petition. Within 30 days after the mailing of such notice, any 25 or more Active members of this Association may make additional nominations by signing a nominating petition which shall, in each instance, be accompanied by the nominee's written consent to serve if elected. In the event the Secretary shall receive such additional nominations, the time, manner, and method of conducting an election and canvassing the same shall be provided by the bylaws. The nominee so elected or, if no nominations shall be made, other than by the Executive Council, the nominee of the Executive Council shall be President-Elect Designate.

(3) The nomination and election of the Chair-Elect of the House of Delegates shall be made by the House of Delegates in such manner as such House may provide.

(4) Provisions shall be made by the bylaws for the method of conducting and canvassing the election for any elective office in this Association in any case where there is more than one nominee for such office.

Rule 4(H)(2) amended March 19, 2003, effective November 1, 2003. Renumbered and codified as § 3-804, effective July 18, 2008.

**§ 3-805. House of delegates.**

(A) Duties and Powers. The House of Delegates shall be the governing body of this Association; shall exercise overall jurisdiction over the affairs of this Association; shall determine and implement the policies and objectives of this Association; shall, consistent with these rules and the purposes of this Association, prepare, adopt, and amend bylaws for the government and operation of this Association, including the provisions for an annual meeting of this Association; and shall perform such other functions as are provided by these rules and the bylaws.

(B) Membership. The elective members of the House of Delegates shall consist of representatives elected from among the Active members of this Association residing in each of the Districts set forth below in this rule on the basis of one delegate for each 60 Active members of this Association, or major fraction thereof (50 percent or greater) residing in such District; provided, however, that each such District shall have at least one such elective delegate. For purposes of this section, the Districts are as follows, and each district is composed of the counties indicated:

- District 1: Johnson, Nemaha, Pawnee, and Richardson;
- District 2: Cass, Otoe, and Sarpy;
- District 3: Lancaster;
- District 4: Douglas;
- District 5: Butler, Hamilton, Polk, Saunders, Seward, and York;
- District 6: Burt, Dodge, and Washington;
- District 7: Fillmore, Nuckolls, Saline, and Thayer;
- District 8: Cedar, Dakota, Dixon, and Thurston;
- District 9: Antelope, Cuming, Knox, Madison, Pierce, Stanton, and Wayne;
- District 10: Adams, Clay, Franklin, Harlan, Kearney, Phelps, and Webster;
- District 11: Hall and Howard;
- District 12: Buffalo and Sherman;
- District 13: Arthur, Dawson, Hooker, Keith, Lincoln, Logan, McPherson, and Thomas;
- District 14: Chase, Dundy, Frontier, Furnas, Gosper, Hayes, Hitchcock, Perkins, and Red Willow;
- District 15: Boyd, Brown, Cherry, Holt, Keya Paha, and Rock;
- District 16: Box Butte, Dawes, Grant, Sheridan, and Sioux;
- District 17: Garden, Morrill, and Scotts Bluff;
- District 18: Gage and Jefferson;
- District 19: Banner, Cheyenne, Deuel, and Kimball;
- District 20: Blaine, Custer, Garfield, Greeley, Loup, Valley, and Wheeler; and
- District 21: Boone, Colfax, Merrick, Nance, and Platte.

(C) Nomination and Election. The elective members of the House of Delegates in each District shall be nominated and elected by the Active members of this Association residing in such District, and the bylaws shall provide the procedure for nominating and electing such members of the House, including provisions for out-of-state Active members to qualify as members for voting purposes within one of the Districts.

(D) Term of Office. Each elective member of the House of Delegates shall hold office for a term of 4 years and until his or her successor is elected and qualified. Elections shall be held in odd-numbered districts in the year 1971 and every 4 years thereafter, and in even-numbered districts in the year 1973 and

every 4 years thereafter. Newly elected members shall take office at the conclusion of the Annual Meeting of this Association following their election.

(E) Vacancies. Any vacancy in the office of any elected delegate shall be filled, for the unexpired term thereof, by vote of the remaining members of the House of Delegates at its next annual or semiannual meeting.

(F) Voting. Only elected members of the House of Delegates shall be entitled to vote upon any matter submitted to such House of Delegates, provided any member appointed to fill a vacancy in the office of an elected member shall be qualified to vote while serving out such term.

(G) Officers. The officers of the House of Delegates shall be the Chair, the Chair-Elect, and the Secretary, whose nomination, election, term of office, and duties shall be provided in these rules and the bylaws. Unless the House of Delegates provides otherwise, the Secretary of this Association shall serve as the Secretary of the House of Delegates.

(H) Personnel and Publications. The House of Delegates shall have the power and the duty to fully administer this Article, including the power to employ necessary personnel and to establish the policies of this Association relating to official publications thereof.

(I) Referendum. A referendum of the membership of this Association on any action taken by the House of Delegates shall be conducted whenever the House of Delegates, by a vote of one-third of the elected members thereof, shall so direct by resolution, or whenever a petition signed by 10 percent of the Active members of this Association residing in each of three-fourths of the Districts shall be filed with the Secretary. The Secretary shall conduct such referendum under such rules as shall be prescribed by the bylaws.

(J) Ex Officio Members. The House of Delegates in the bylaws may provide for nonvoting ex officio members of the House of Delegates and may determine what members of this Association may speak and exercise the privileges of the floor other than the privilege of voting. Meetings of the House of Delegates shall be open to all Active members of this Association.

(K) ABA Delegates. The House of Delegates shall elect the delegates of this Association to the American Bar Association as may be provided and authorized in the bylaws of the American Bar Association.

Rule 5(A) amended March 19, 2003, effective November 1, 2003. Renumbered and codified as § 3-805, effective July 18, 2008.

### **§ 3-806. Executive council.**

(A) Duties and Powers. The Executive Council shall function as the administrative and executive organ of this Association and shall carry out and implement the duties and responsibilities delegated to it by these rules, the bylaws, and the House of Delegates. In the absence of other nominating petitions, the Executive Council shall nominate candidates for the offices of elective members of the House of Delegates and for the District members of the Executive Council.

(B) Membership. The Executive Council shall consist of the President, President-Elect, President-Elect Designate, Chair, Chair-Elect of the House of Delegates, and six elected District members. The immediate Past President of this Association shall also serve as a member of the Executive Council for the year following the expiration of his or her term of office as President.

(C) District Representatives. There shall be one District member of the Executive Council elected from each of the six Supreme Court Judicial Districts as such districts are now numbered and constituted or as they may hereafter be constituted. Each District member shall be an Active member of this Association who resides in the district which he or she represents and shall be elected by the Active members of this Association residing within such district and out-of-state Active members who qualify as members of the District for voting purposes as provided in the bylaws.

(D) Nomination and Election. The bylaws shall provide for the nomination of District members by petition of Active members of the district and for the election of District members by secret mail ballot.

(E) Term of Office. The term of office of District members shall be 4 years, commencing at the close of the Annual Meeting following election, and no District member shall serve consecutive terms. The terms of District members shall be staggered so that there shall be one member elected in each year. Elections shall be held in the following order: Supreme Court Districts 3, 6, 4, 1, 2, and 5. In case of a vacancy in office of any District member, the remaining members of the Executive Council shall have the power to fill such vacancy by appointment to serve until the next regular election.

(F) Voting. Only District members shall vote on nominations for Association office to be made by the Executive Council; the Executive Council shall not nominate any one of its current District members for any elective office in this Association. The District members of the Executive Council shall appoint an Active member to fill any vacancy in the office of Delegate to the House of Delegates of the American Bar Association in the event of a vacancy in such office.

Rule 6(D) - (F) amended March 19, 2003, effective November 1, 2003. Renumbered and codified as § 3-806, effective July 18, 2008.

### **§ 3-807. Committees and sections.**

(A) Budget and Planning Committee. There shall be a Budget and Planning Committee of this Association, consisting of not more than 13 members, who shall be appointed and whose terms shall be set in accordance with the bylaws, which committee shall perform the functions assigned to it in § 3-809.

(B) Other Committees. Other committees of this Association may be created or abolished from time to time and shall have such jurisdiction and be elected or appointed in such manner with such tenure as fixed by the bylaws. Nonmembers, including laypersons, who by reason of their backgrounds or expertise can contribute toward the work of committees may be appointed by committee chairs to serve on committees as nonvoting committee members.

(C) Sections. Sections of this Association may be created or abolished from time to time by the House of Delegates in such manner and with such functions as may be provided by the bylaws.

Rule 7(A) and (B) amended March 19, 2003, effective November 1, 2003. Renumbered and codified as § 3-807, effective July 18, 2008.

### **§ 3-808. Meetings.**

(A) Annual Meeting. This Association shall have one regular meeting annually at a time and place to be fixed by the Executive Council. Each member of this Association shall be notified thereof by the Secretary by mail.

(B) House of Delegates. The House of Delegates shall meet during the Annual Meeting and may be recessed from time to time throughout the Annual Meeting. The House of Delegates shall also hold a meeting in April, May, or June of each year at a time and place to be fixed by the House of Delegates. The President, Chair of the House of Delegates, or any 10 members of the House of Delegates may call a special session of the House of Delegates upon giving 10 days' written notice of the time, place, and purpose thereof to the elected members of the House of Delegates. A majority of the elected members of the House of Delegates shall constitute a quorum for the transaction of business.

(C) Executive Council. An annual meeting of the Executive Council shall be held at the time and place selected for the holding of the Annual Meeting, and such other meetings thereof shall be held as may be called by the President, three District members, or as provided by the bylaws. Six members of the Executive Council shall be a quorum for the transaction of business.

(D) Emergency Meetings. In case of extreme emergency, the Executive Council, with the approval of the Supreme Court, may dispense with the calling of the Annual Meeting, but in such event shall call, in lieu thereof, a special session of the House of Delegates. In the case of extreme emergency, the Executive Council may call a special meeting, in such manner as may be determined by such Council, of all persons licensed to practice law in Nebraska.

Rule 8(A) and (B) amended March 19, 2003, effective November 1, 2003. Renumbered and codified as § 3-808, effective July 18, 2008.

### **§ 3-809. Budget and audit.**

(A) Budget Preparation and Approval. The Budget and Planning Committee of this Association, consisting of not more than 13 members, shall study the income and expenses of this Association and shall prepare and submit to the Executive Council a proposed budget for each fiscal year of this Association. The Executive Council shall, upon receipt of such proposed budget, pass upon the same, and shall thereupon prepare and submit an annual budget of this Association's receipts and expenditures to the House of Delegates for its consideration and approval. Such proposed budget shall not be effective until 30 days after it shall be approved by a majority vote of the House of Delegates at a meeting for which at least 30 days' notice, including a copy of the proposed budget, has been given. The House of Delegates by majority vote thereof may amend or modify the proposed budget prior to its final adoption.

(B) Authorization of Expenditures. After the budget is adopted by the House of Delegates, no expenditures shall be made for this Association except as provided thereby, provided, however, that in case of emergency, the President may authorize additional expenditures not to exceed \$1,000 in any one instance; and provided further, that, in the case of emergency, the Executive Council may, by vote of two-thirds of its members, authorize additional expenditures not exceeding the total sum of \$50,000 in any 1 year. No other expenditures shall be made except on approval by the House of Delegates.

(C) Accounting and Auditing. The Executive Council shall cause proper books of account to be kept and shall prepare an annual audit thereof by a certified public accountant. Such audit shall contain a balance sheet and a statement of operations for the fiscal year involved, shall be submitted to the House of Delegates for approval at its next meeting, and shall be distributed to the members of the House of Delegates at least 30 days prior to the date of such meeting.

(D) Circulation of Budget and Audit. The Executive Council, prior to the Annual Meeting of this Association, shall file with the Clerk of the Supreme Court and shall cause to be distributed to the members of this Association a copy of the current annual budget, the proposed budget for the succeeding

year, and an annual statement showing a balance sheet and operating statement for the last preceding fiscal year.

(E) Fiscal Year. The books and records of this Association shall be kept, and the affairs of this Association shall be managed, on a fiscal year basis to be fixed by the bylaws.

Rule 9(A) – (E) amended March 19, 2003, effective November 1, 2003 (Rule 9(C) deleted and (D) – (F) renumbered). Renumbered and codified as § 3-809, effective July 18, 2008.

### **§ 3-810. Ethical standards.**

Effective September 1, 2005, the ethical standards relating to the practice of law in this State shall be the Nebraska Rules of Professional Conduct as adopted by the Nebraska Supreme Court on June 8, 2005, together with such amendments and additions thereto as may from time to time be approved by the Supreme Court of Nebraska.

Rule 10 amended July 13, 2005, effective September 1, 2005. Renumbered and codified as § 3-810, effective July 18, 2008.

### **§ 3-811. Bylaws.**

Suitable bylaws, not inconsistent with these rules, shall be adopted by the House of Delegates.

### **§ 3-812. Amendment.**

Recommendations to the Supreme Court of amendments to these rules may be adopted by a two-thirds vote of the elected members present at a regular or special meeting of the House of Delegates, provided that no recommendation shall be considered (except by the unanimous consent of the elective members present) unless a written or printed copy of the proposed recommendation shall have been included in the call for the meeting. Recommendations to the Supreme Court of amendments to these rules may also be adopted by the exercise of the power of initiative as vested in the membership under § 3-802.

### **§ 3-813. Enabling rules.**

(A) Bylaws. The present bylaws of this Association shall continue, so far as applicable, under these rules until new bylaws hereunder shall be adopted.

(B) Effective Date. These rules shall become effective on January 1, 1971.

(C) Terms of House of Delegates and Executive Council Members. All previously elected members of the House of Delegates and of the Executive Council shall complete their respective terms as existing under the rules of this Association, prior to the effective date hereof. Upon the effective date of this rule, all elected members thereof shall take office upon the termination of the terms of such previously elected members.

(D) Terms of Officers. In the event these amended rules shall become effective prior to the date of the Annual Meeting of this Association, as previously fixed, all officers serving at the time of such effective date shall finish out their respective terms, and their successors shall be elected in accordance with the provisions hereof.

**§ 3-814. Filing bylaws and rules.**

The Nebraska State Bar Association shall at all time keep on file with the Clerk of the Nebraska Supreme Court and Court of Appeals a current copy of its bylaws and all rules under which its House of Delegates, Executive Council, and various committees and sections operate.

Rule 14 (formerly the Rule Requiring Filing of Nebraska State Bar Association Rules With Supreme Court) amended January 22, 1998. Renumbered and codified as § 3-814, effective July 18, 2008.